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January 14, 2010

VIA Overnight Delivery

The Honorable Claudia Wilken
United States District Court
Northern District of California
Oakland Division
1301 Clay Street, Suite 400 S
Oakland, CA 94612-5212

Re: *Keller v. Electronic Arts, Inc., et al.*, Case No. C 09-01967 CW (“*Keller*”);
O’Bannon, Jr. v. NCAA, et al., Case No. C 09-03329 CW (“*O’Bannon*”);
Bishop v. Electronic Arts, Inc., et al., Case No. C 09-04128 CW (“*Bishop*”);
Newsome v. NCAA, et al., Case No. C 09-04882 CW (“*Newsome*”);
Anderson v. NCAA, et al., Case No. C 09-05100 CW (“*Anderson*”);
Wimprine v. NCAA, et al., Case No. C 09-05134 CW (“*Wimprine*”);
Jacobson v. NCAA, et al., Case No. C 09-05372 CW (“*Jacobson*”);
Rhodes v. NCAA, et al., Case No. C 09-05378 CW (“*Rhodes*”)
(collectively, informally known as the “*NCAA Cases*”)

Dear Judge Wilken:

The undersigned is principal counsel for Bryon Bishop, plaintiff in *Bishop v. Electronic Arts, Inc., et al.* This letter is submitted in response to the letter dated January 11, 2010 by Mr. King and Mr. Carey in support of their motion for appointment as interim co-lead counsel.

The King-Carey letter states that “All of the plaintiffs support appointment of HBSS and Hausfeld as interim co-lead class counsel except the plaintiff in the *Bishop* action.” The purpose of this letter is to clarify and explain our position with respect to the appointment of co-lead counsel.

As set forth in the King-Carey letter, the Court indicated at the December 17, 2009 hearing that it was amenable to appointing two firms to serve as interim co-lead counsel. One firm, presumably the Hausfeld firm, would be primarily responsible for supervising the litigation of those claims in the consolidated complaint which are comparable to the claims previously set forth in the *O’Bannon* complaint; the other firm would be primarily responsible for supervising

WEINSTEIN KITCHENOFF & ASHER LLC

January 14, 2010 Page 2

the litigation of those claims which are analogous to the claims previously set forth in the *Keller* and *Bishop* complaints.

The attorneys for *Bishop*, including the firm of Ram & Olson in San Francisco with which we are affiliated, vigorously support the appointment of the Hausfeld firm to serve as one of the co-lead counsel. I have worked as co-lead counsel with Mr. Hausfeld and the other attorneys in his firm on numerous cases (see, e.g., *In re Flat Glass Antitrust Litigation* (W.D. Pa.); *In Re Polyester Staple Antitrust Litigation* (W.D.N.C.); *In re Processed Egg Products Antitrust Litigation* (E.D. Pa.)),* and am absolutely certain that, if appointed, they will discharge their duties as co-lead counsel with competence, resourcefulness, diligence and fairness.

Before agreeing to support HBSS, I contacted Mr. Carey to discuss how he envisioned our respective firms working together to litigate the common claims set forth in the *Keller* and *Bishop* cases. Based on those conversations, I reached the conclusion that HBSS contemplates, at best, a minimal role for our firm. Given our firm's record of achievement, and the fact that we filed the only other case to directly assert claims against Electronic Arts, I found this position to be somewhat puzzling.

We acknowledge that HBSS has the requisite legal competence to serve as one of the co-leads. Moreover, we acknowledge that HBSS has played a significant role in the development of the claims asserted in this litigation. Nevertheless, given the position of HBSS as to the role of our firm in this litigation, we are not prepared to support its application to serve as one of the interim co-lead counsel.

Respectfully submitted,

/s/Steven A. Asher

Steven A. Asher

SAA/pam

cc: All counsel of record in the NCAA Cases registered on ECF

*See Exhibit 1 to Asher Declaration in Support of Plaintiff Bishop's Motion for Consolidation, *Bishop* Docket No. 11.

CERTIFICATE OF SERVICE

I, Steven A. Asher, declare that I am over the age of 18 and not a party to the entitled actions. I am a member of the law firm of Weinstein Kitchenoff & Asher LLC, and my office is located at 1845 Walnut Street, Suite 1100, Philadelphia, Pennsylvania 19103.

On January 14, 2010, I served copies of this **LETTER FROM STEVEN A. ASHER** **TO THE HON. CLAUDIA WILKEN** with the Clerk of Court using the Official Court Electronic Document Filing System, which served copies on all interested parties registered for electronic filing.

I also certify that I caused true and correct Chambers Copies of the foregoing documents(s) to be delivered via Federal Express to the following Judge pursuant to Civil L.R. 3-12(b) by noon of the following day:

The Hon. Claudia Wilken
U.S.D.C., Northern District of California
Oakland Division
1301 Clay Street, Suite 400 S
Oakland, CA 94612-5212

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 14, 2010

By: /s/Steven A. Asher

Steven A. Asher